

# State of South Dakota

SEVENTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 1998

463B0529

## HOUSE ENGROSSED NO. **HB1214** - 2/12/98

Introduced by: Representatives Munson (Donald), Duniphan, Fischer-Clemens, Moore, and Pummel and Senators Hunhoff, Dennert, and Symens

1 FOR AN ACT ENTITLED, An Act to require continuation and conversion of health care  
2 coverage when an employer ceases operations.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Every policy of group health insurance providing benefits for hospital or medical  
5 expenses delivered or issued for delivery in this state, by a commercial health insurance company,  
6 by a nonprofit medical and surgical service plan corporation, by a nonprofit hospital service plan  
7 corporation, by a health maintenance organization, or by any other similar mechanism shall, in  
8 addition to the provisions required by law, include the right of each employee, upon their  
9 employer ceasing operations and the termination of the policy or contract, to have the coverage  
10 continue for themselves and their eligible dependents for a period of eighteen months for which  
11 the employee shall be financially responsible.

12 Section 2. Every policy stated in section 1 of this Act shall also provide an employee with  
13 the right, upon the employer ceasing operations and the termination of the policy or contract, to  
14 an individual conversion policy or contract without additional underwriting restrictions. The  
15 conversion policy shall consist of a plan of individual coverage that closely approximates the

1 coverage provided under the group, and shall be renewable at the option of the insured.

2 Section 3. Continuation and conversion shall only be available to an employee who has been  
3 continuously insured under the group policy and for similar benefits under any group policy  
4 which it replaced during the entire six-month period ending with such termination.

5 Section 4. Written notice of termination of group coverage shall be provided by the employer  
6 to each employee having coverage within ten days of termination. The notice shall contain such  
7 information as required by the director.

8 Section 5. Any employee may exercise the right to continuation or conversion within thirty  
9 days of receipt of due notice of termination of coverage of the group and upon payment of  
10 premiums from the date of termination.

11 Section 6. The conversion policy shall cover the employee who was covered by the group  
12 policy on the date of termination of insurance. At the option of the insurer, a separate conversion  
13 policy may be issued to cover any dependent.

14 Section 7. No insurer may be required to offer or renew a continuation or conversion policy  
15 covering any person if:

- 16 (1) The person is covered for similar benefits by another individual or group policy;
- 17 (2) Similar benefits are provided for or available to such person, by reason of any state  
18 or federal law;
- 19 (3) The benefits under sources of the kind referred to in subdivision (1) for such person  
20 or benefits provided or available under sources of the kind referred to in subdivision  
21 (2) for such person, together with the continued or converted policy's benefits, would  
22 result in overinsurance according to the insurer's standards for overinsurance;
- 23 (4) There has been fraud or material misrepresentation in applying for any benefits under  
24 continued or converted policy;
- 25 (5) The person failed to pay any required contribution; or

1       (6)   Cancellation of all similar insurance policies in the entire state.

2       Section 8. The premium for the conversion policy shall be determined in accordance with the  
3 insurer's table of premium rates applicable to the age and class of risk for each person to be  
4 covered under that policy and to the type and amount of insurance provided. The premium for  
5 a continuation policy may not be greater than one hundred twenty-five percent of the group rate  
6 under which a person is covered.

7       Section 9. A notification of the continuation and conversion rights shall be included in each  
8 certificate of coverage.

9       Section 10. The insurer may elect to provide group insurance coverage in lieu of the issuance  
10 of a converted individual policy.

11       Section 11. Nothing in this Act is enforceable to the extent such enforcement violates the  
12 Employer Retirement Income Security Act.

1    **BILL HISTORY**

2    1/21/98 First read in House and referred to Commerce. H.J. 153

3    2/5/98 Scheduled for Committee hearing on this date.

4    2/10/98 Scheduled for Committee hearing on this date.

5    2/10/98 Commerce Do Pass, Passed, AYES 8, NAYS 5. H.J. 493

6    2/11/98 Motion to Amend, Passed. H.J. 590